

New Hampshire Digging Needs a Federal Permit

CURRENTLY, construction activity that disturbs **5** or more acres of land needs a Federal storm water permit.

AS OF MARCH 10, 2003, construction activity that disturbs **1** or more acre of land needs a Federal storm water permit.

This is a requirement of the Federal NPDES (National Pollutant Discharge Elimination System) program. For projects in NH, you apply to the US EPA New England office in Boston.

This permit is different from:

- NH's own Alteration of Terrain (Site Specific) permit
- State and Federal wetlands permits
- EPA's dewatering permit

What EPA considers "**construction activity**": clearing, grading, excavation and other activities that expose soil related to projects such as landscaping, demolition, and building homes, office buildings, factories, roads, etc.

If your own work site creates less than 5 acres of disturbance (or, as of March 2003, 1 acre), but is part of a "**larger plan of development or sale**" totaling that many acres of disturbance, you need a permit. It is important to note that the threshold is for total disturbance. The areas of disturbance do not need to be contiguous to be included in the calculation of total disturbance.

If there is no way that storm water (rain, snow melt, etc) from your site could run off your site in a concentrated manner (digging its own little channel, running down a street, flowing in a ditch, going down a storm drain, etc) and eventually make its way to surface water (wetland, pond, stream, brook, lake, ocean, etc), then you don't need a permit. *But that would be very unusual.*

Here's who needs to apply, and what to do

Both the contractor (with day-to-day control of the site) and the owner or developer (with control over the plans and specs) need to submit a separate one-page "**Notice of Intent**" (NOI) to be covered by the NPDES General Permit for Storm Water Discharges from Construction Activities, and together develop one shared **Storm Water Pollution Prevention Plan** (SWPPP) showing how they will prevent erosion, control sediment loss, and keep other pollutants from running off the site. You are automatically covered by the permit 2 days after the postmarked date on your NOI, but you must be prepared to show your SWPPP to inspectors who visit your site. You must also be ready to show that you are implementing your plan, and have inspected your site regularly to make sure of that. Within 30 days after the project is done and completely stabilized (or transferred to another permit holder or the homeowner after temporary stabilization), you must file a **Notice of Termination**.



To get the forms, the permit, and guidance, go to <http://www.epa.gov/npdes/stormwater> or call Thelma Murphy, EPA, at 617-918-1615.



If you need a NH Alteration of Terrain (Site Specific) permit too

NH's permit and EPA's permits differ in coverage based on the size and location of the project. But there is considerable overlap between the plans you need to develop for the two permits, and you can develop one good plan to satisfy both. ***If you prepare a plan that adheres to all the components of NH DES's "Guidelines for the Preparation of Site Specific Applications" (1996), here is the additional information you must provide to satisfy the terms of EPA's SWPPP:***

- The site map needs to also show areas of soil disturbance, areas where soil will not be disturbed, locations of all major storm water controls, and locations of off-site material, waste, borrow and equipment storage areas.
- Location and description of any non-construction sources of pollutants on the site, such as a storm water discharge from concrete or asphalt plants dedicated to the project, and how that pollution will be minimized.
- Name of receiving waters and areal extent of wetlands at or near the site.
- Information on any endangered or threatened species on or near the site, and how they will be protected.
- Plans for use of sediment traps and ponds must provide for sediment removal when design capacity has been reduced by 50%.
- Description of construction materials and wastes associated with the project (litter, debris, chemicals, etc), how their exposure to storm water will be minimized, and how spills will be prevented, contained, and cleaned up. Refueling, servicing, and failing to maintain vehicles are common sources of petroleum spills.
- How off-site tracking of sediments and dust by vehicles will be minimized.
- How storm water pollution from off-site material storage areas used for the project, such as soil stockpiles and borrow areas, will be minimized.
- How sources of non-storm water generated, such as vehicle wash water, building and pavement wash water, water line flushings, and exposed ground water, will be prevented from contributing to runoff pollution. Note that discharge of wash water contaminated with detergents or other chemicals is not allowed under the storm water permit.
- Construction activity records showing:
 - Dates when major grading activities occur.
 - Dates when construction activities temporarily or permanently cease on part of the site.
 - Dates when stabilization is begun (no later than 14 days after construction activity ceases, if earth disturbing activities won't resume within 21 days).

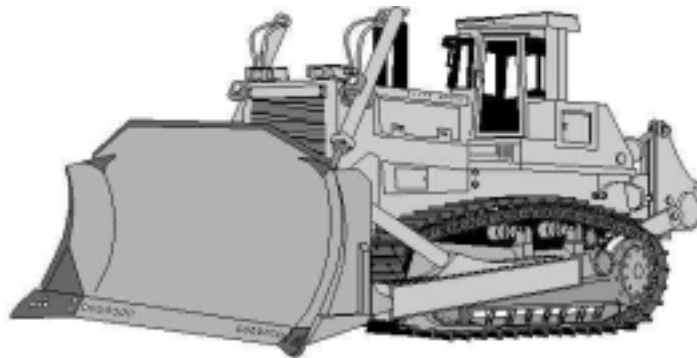
- For sites over 10 acres, a sediment basin designed to handle 3600 ft³/acre (or a 2-year, 24-hour storm) must be provided at least until the site has been permanently stabilized.
- For sites under 10 acres, a smaller sediment basin/trap and sediment controls (silt fence, buffer, etc) for all down slope boundaries and any appropriate mid/side slope boundaries must be provided.
- Inspection records showing:
 - That inspections have been conducted at least once every 14 days AND within 24 hours of a .5 inch storm.
 - That all disturbed areas, (exposed) material storage areas, structural controls, vehicle entry/exit locations, and storm water discharge locations OR downstream locations have been inspected.
 - The names and qualifications of personnel conducting the inspections, and the dates, scope, and findings of the inspections.
 - That the SWPPP has been modified within 7 days of any inspection that shows a need to institute or change any storm water controls.

NOTE: This is a concise list to give you an idea of how to combine the two required plans into one. It is not a substitute for reading and understanding both permits.



The EPA permit also strongly encourages various prudent erosion and sediment control practices, such as preserving existing vegetation where possible.

If your project does not require a NH permit but does require an EPA permit, simply follow the SWPPP preparation guidelines outlined in the EPA permit.



Fact sheet revised 9/16/02 by Abby Swaine,
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